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May 31, 2024

Via Email

Gregory J. Giblin
United States Probation Officer
U.S. Probation – Eastern District of New York
202 Federal Plaza, Central Islip, New York 11722
Gregory_Giblin@nyep.uscourts.gov

Re: *United States v. Genaro Garcia Luna*, 19 Cr. 576 (BMC)

Dear Officer Giblin,

Please accept the following objections and corrections to Mr. Garcia Luna's Draft Presentence Report. Additionally, enclosed here we have included a recently received Certificate of Appreciation that Mr. Garcia Luna received from the Bureau of Prisons while housed at the Metropolitan Detention Center.

Objections to Offense Conduct

- ¶¶ 15-18: Mr. Garcia Luna denies the allegations of criminality set forth in paragraphs 15-18. In his positions within the Mexican government, Mr. Garcia Luna did not assist any drug cartels. In fact, one of his primary responsibilities was to combat drug cartels in Mexico and to assist the United States in its efforts to combat drug trafficking.
- ¶ 20: Mr. Garcia Luna denies the allegations of obstruction set forth in paragraph 20. This issue is currently being litigated and no court or trier of fact has determined that Mr. Garcia Luna engaged in the conduct alleged.

Objections to Guideline Calculations

- ¶ 24: For the reasons set forth below, the base offense level should be 42, not 46. That is because the § 2D1.1 enhancements should not apply, making the based offense level for counts 2-4 (exclusive of Chapter 3 enhancements) 38. With the four point enhancement for continuing criminal enterprise, the base offense level should be 42.

- ¶ 28: This paragraph assesses 2 points for obstruction of justice. As noted above, no determination has been made that he engaged in the alleged conduct. Mr. Garcia Luna denies it. Accordingly, this enhancement should not be applied.
- ¶ 29: The offense level should be 42, not 48.
- ¶ 31: Mr. Garcia Luna did not provide armed guards for the Sinaloa Cartel. Accordingly, this enhancement should not be applied.
- ¶ 32: Mr. Garcia Luna did not commit this crime. But even if he had, he did not commit the offense as part of a pattern of criminal conduct engaged in as a livelihood. Mr. Garcia Luna was a full time official in the Mexican government. The alleged criminal conduct was not and could not have been engaged in as a livelihood. Accordingly, this enhancement should not be applied.
- ¶ 37: Mr. Garcia Luna objects to this enhancement for the same reasons he objects to ¶ 28.
- ¶ 38: For the reasons explained above, the adjusted offense level should be 40, not 49.
- ¶ 46: The greater of the adjusted offense level should be 42, not 49.
- ¶ 48: The combined offense level should be 42.
- ¶ 51: The total offense level should be 42, not 43.
- ¶ 86: The guideline level reported in this paragraph should be 42, with a corresponding sentencing range of 360-life.

Corrections

- Mr. Garcia Luna's "Education" on Page 2 should read "Master's Degree", as he received his Master's in Business and Economics from the University of Miami (FL).
- Paragraph 64 should be amended to include that the United States Government extended an invitation to Mr. Garcia Luna to emigrate to the United States based on his exceptional merits.
- Paragraph 70 should be amended to include that he received his Master's in Business and Economics from the University of Miami (FL).

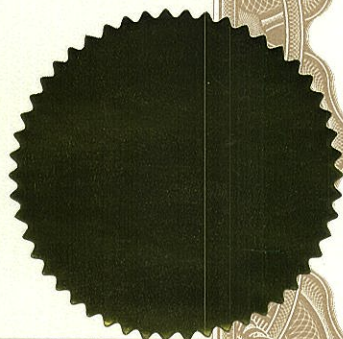
Respectfully Submitted,

/s/

César de Castro

Encl.

Cc: The Honorable Brian M. Cogan (*via* ECF)
All counsel of record (*via* ECF)



U.S. Department of Justice
Federal Bureau of Prisons

Certificate of Appreciation

We present this Certificate to

GENARO GARCIA-LUNA

EDUCATION DEPARTMENT

In recognition of your hard work, determination and dedication to the education department

A handwritten signature in black ink, appearing to read 'Gm', located below the recipient's name.

Awarded this 1st day of May 2024
MDC Brooklyn

